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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/462,816	04/05/2000	XIAOMAO LI	1038-1003-MI	5549

7590 10/25/2002

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EXAMINER

WHITEMAN, BRIAN A

ART UNIT PAPER NUMBER

1635

DATE MAILED: 10/25/2002

17

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/462,816

Applicant(s)

LI ET AL.

Examiner

Brian Whiteman

Art Unit

1635

--The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

THE REPLY FILED 10 October 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 10 October 2002. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): ..
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1-9,13-23,27-34 and 39-42.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☒ Other: See Continuation Sheet

Continuation of 2. NOTE: Amended claim 15 would be rejected under 112 first paragraph and second paragraph and new claim 49 would require a rejection under 112 second paragraph.

Continuation of 5. does NOT place the application in condition for allowance because: the applicants have not provided sufficient guidance or factual evidence to overcome the rejection under 103 for claims 1-2, 5-7, 15-16, 19-20, 30-34. Therefore, the rejection under 103 remains. In addition, the new claim, claim 49, would require a rejection because it does not further limit claim 30. Furthermore, the pre-amble of claim 30 is completed in the body of said claim and claim 49 does not have a nexus with the pre-amble of claim 30. In addition, claim 15 would be rejected under 112 first paragraph and 112 second paragraph for lacking an essential step. More specifically, claim 15 is directed to a method of stimulating an immune response in a mammal and the body of the claim is lacking a step for completing the pre-amble of the claimed method.

Continuation of 10. Other: The after final amendment will not be entered for the reasons set forth above.

A 948 form was attached to paper no. 7 and applicants have not submitted correction to the drawings or proposed corrections to the drawings.



DAVE T. NGUYEN  
PRIMARY EXAMINER